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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/516,789

07/05/2005

Norbert Fuchs

SONN:063US

7343

32425

7590

09/15/2006

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EXAMINER

CLARK, AMY LYNN

ART UNIT

PAPER NUMBER

1655

DATE MAILED: 09/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/516,789

Applicant(s)

FUCHS ET AL.

Examiner

Amy L. Clark

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 14-30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 14-24, drawn to a method comprising: obtaining an agent prepared from plant seedlings enriched with electrolytes comprised in a pharmaceutical preparation; and administering the preparation to a non-immune-suppressed person; wherein the administration of the preparation results in proliferation of T-lymphocytes in the person.

Group II, claims 25-30, drawn to a method comprising: obtaining an agent prepared from plant seedlings enriched with electrolytes comprised in a pharmaceutical preparation; and administering the preparation to a person; wherein administration of the preparation results in reduction of blood cholesterol concentration in the person.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The invention of Group I is drawn to a method comprising: obtaining an agent prepared from plant seedlings enriched with electrolytes comprised in a pharmaceutical preparation; and administering the preparation to a non-immune-suppressed person; wherein the administration of the preparation results in proliferation of T-lymphocytes in the person, whereas the Invention of Group II is drawn to a method comprising: obtaining an agent prepared from plant seedlings enriched with electrolytes comprised in a pharmaceutical preparation; and administering the preparation to a person; wherein administration of the preparation results in reduction of blood cholesterol concentration in the person. The method of Group I is not related to the method of Group II because the methods recited different method steps and, therefore, provide two completely distinct methods. A search for the method of Group I is not co-extensive with a search for the method of Group II. See MPEP § 1839.03 [R3].

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Group I:

Specie A: one result of administration of the preparation from Claim 15, 16, 17, 18, 19, 20 or 22.

If Claim 22 is elected as Specie A, further elect either atherosclerosis, myocardial infarct or apoplexy from Claim 22.

Group II:

Specie A: one result of administration of the preparation from Claim 26, 27 or 28.

If Claim 27 is elected as Specie A, further elect either atherosclerosis, myocardial infarct or apoplexy from Claim 27.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

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are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Group I:

Specie A: Claim 15 is drawn to Claim 15, Claim 16 is drawn to Claim 16, Claim 17 is drawn to Claim 17, Claim 18 is drawn to Claim 18, Claim 19 is drawn to Claim 19, Claim 20 is drawn to Claims 20 and 21, Claim 22 is drawn to Claim 22.

Group II:

Specie A: Claim 26 is drawn to Claim 26, Claim 27 is drawn to Claim 27, Claim 28 is drawn to Claim 28.

The following claims are generic: Claims 14, 20 and 25.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The effects of the preparation in claims 15, 16, 17, 18, 19, 20 and 22 and in claims 26, 27 and 28 are distinct both physically and functionally from each other and a search for one effect is not co-extensive with a search for another.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy L. Clark whose telephone number is (571) 272-1310. The examiner can normally be reached on 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Amy L. Clark
AU 1655

Amy L. Clark
August 30, 2006


TERRY MCKELVEY, PH.D.
SUPERVISORY PATENT EXAMINER